

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 458 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

MAHESHBHAI RAMESHBHAI KOTECHA

Versus

SMITABEN MAHESHBHAI KOTECHA

Appearance:

MR SB BRAHMBHATT for Petitioner

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 03/05/2000

ORAL JUDGEMENT

The petitioner is the husband of the respondent and he has filed this Revision challenging the order of the learned 8th Joint Civil Judge (SD), Rajkot dated 10.12.1999 granting interim maintenance of Rs.1000/- in favour of the respondent. Learned Advocate for the petitioner has strongly contended that there is no

evidence on record to show the income of the petitioner, that the petitioner is a small photographer having a very meagre amount of income and, therefore, the amount of maintenance fixed by the trial court is very high. Learned Advocate for the petitioner states that evidence has been produced before the trial court to show the income of the petitioner, but he is not in a position to say as to what evidence the petitioner has produced before the trial court to show his income.

2. At the same time, it has to be considered that the amount of Rs. 1,000/- per month cannot be considered very high in the present time. The petitioner as well as the respondent both have been staying at Rajkot which is a district headquarter. It may be very difficult for a person to stay in such a City without any arrangement for maintenance. Therefore, with a view to allow the respondent to stay with dignity, some arrangement has to be made and that has been done by the trial court. On the other hand, it has also been argued that the respondent has deserted the petitioner. This point is still to be decided on merit at the conclusion of the trial.

3. The petitioner is shown to be a well bodied man and it can be inferred that he has a reasonable earning to stay at Rajkot. Under the circumstances, it cannot be said that the amount is on higher side. Therefore, the order passed by the trial court cannot be said to be without jurisdiction and it can also not be said that the trial court has committed material irregularity relating to jurisdiction in granting maintenance at the interim stage of Rs. 1000/- per month. No prejudice has been caused to the petitioner and it cannot be said that the order has resulted in miscarriage of justice.

4. Consequently, there is no merit in the present matter and the same deserves to be dismissed. The respondent was served and her brother is present in the court and, therefore, he has been heard.

5. With the above observation, this Revision is dismissed with cost of Rs.300/- of the respondent. D.S. permitted.

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msp.